

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DWAYNE RICHARDSON,

Plaintiff, **UNSEALING ORDER**

-against-

19-cv-00242 (ARR) (SMG)

NYPD Officer CHRISTIAN DIAZ (Shield # 17665),

Defendant.

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WHEREAS, the parties maintain, on information and belief, that the incident underlying this action may have been investigated by law enforcement agencies, government agencies, prosecutors' offices, and/or other investigatory bodies, including, but not limited to, the Internal Affairs Bureau ("IAB") of the New York City Police Department ("NYPD"), the New York City Civilian Complaint Review Board ("CCRB"), the New York City Mayor's Office, and/or the Office of the Inspector General for the New York City Police Department ("OIG-NYPD") (hereinafter referred to collectively as "Investigating Agencies");

WHEREAS, the parties maintain, on information and belief, that such Investigating Agencies may have assembled paperwork, conducted interviews, and/or generated files in connection with their respective investigations into the incident underlying this action (hereinafter referred to collectively as "Investigation Files");

WHEREAS, the parties maintain, on information and belief, that the Investigation Files are relevant to this action and, upon information and belief, such Investigation Files may contain information concerning the plaintiff, as well as other non-party detainees, arrestees, and/or apprehended others (hereinafter referred to as "Non-Party Detainees"), that may

be sealed pursuant to N.Y.C.P.L. § 160.50 and/or § 160.55 and cannot be obtained and/or produced without an unsealing order; and

WHEREAS the Court has the inherent authority to unseal these records in connection with this action, *see Schomburg v. Bologna*, 298 F.R.D. 138, 141 (S.D.N.Y. 2014) (“Federal courts can and commonly do order production of documents sealed under Section 160.50.”) (collecting cases);

IT IS HEREBY ORDERED that any information contained within any Investigation Files, as defined by this Order, that may be sealed pursuant to N.Y.C.P.L. § 160.50 and/or § 160.55 be made available to Bernstein Clarke & Moskovitz PLLC, or its authorized representatives, and Zachary W. Carter, the Corporation Counsel of the City of New York, or to his authorized representatives, for inspection, photocopying, and use in the federal action brought by Dwayne Richardson against New York City Police Officer Christian Diaz;

IT IS FURTHER ORDERED that, except as otherwise set forth in this Order, the City of New York, including but not limited to the Office of the Corporation Counsel, and any Investigating Agency, as defined by this Order, shall not be bound by the statutory sealing requirements of CPL § 160.50 and/or §160.55 for any information contained within any respective Investigation Files, for the purpose of disclosing the Investigation Files to plaintiff’s counsel or other individuals pursuant to the terms of the Court’s June 18, 2019 Protective Order in connection with the above-entitled action;

IT IS FURTHER ORDERED that, except as otherwise set forth in this Order, the use of the above-referenced records by Bernstein Clarke & Moskovitz PLLC, or its authorized representatives, and Zachary W. Carter, the Corporation Counsel of the City of New York, or to his authorized representatives, is restricted to use in the above-entitled civil rights

action and shall be protected as “confidential” pursuant to the terms of the Court’s June 18, 2019 Protective Order;

IT IS FURTHER ORDERED that the names, personal identifiers, and/or contact information of any Non-Party Detainees referenced within the Investigation Files, whose records are sealed pursuant to CPL § 160.50 and/or §160.55, shall be kept “Attorneys Eyes Only” by Bernstein Clarke & Moskovitz PLLC, or its authorized representatives, and Zachary W. Carter, the Corporation Counsel of the City of New York, or his authorized representatives; and

IT IS FURTHER ORDERED that the parties and their counsel shall not knowingly contact or otherwise communicate with any Non-Party Detainees referenced within the Investigation Files, whose records are sealed pursuant to CPL § 160.50 and/or §160.55, absent further Order of the Court.

Dated: Brooklyn, New York

Hon. Steven M. Gold, U.S.M.J.